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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,128	05/08/2001	Robert H. Getzenberg	076333/0238	1058
22428	7590	01/08/2004	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EPPS FORD, JANET L	
			ART UNIT	PAPER NUMBER
			1635	

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/850,128

Examiner

Janet L. Epps-Ford, Ph.D.

Applicant(s)

GETZENBERG, ROBERT H.

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Stepen Maebius was contacted on 12-30-03 concerning the status of this application. It was concluded that the instant application was abandoned by Applicants in favor of a continuing application. See also the attached Communication Re: Appeal.

SEAN McGARRY
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

SM
Communication R : Appeal

Application No.

09/850,128

Applicant(s)

GETZENBERG, ROBERT H.

Examiner

Janet L. Epps-Ford, Ph.D.

Art Unit

1635

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1. ☐ The Notice of Appeal filed on _____ is not acceptable because:

(a) ☐ it was not timely filed.

(b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).

(c) ☐ the appeal fee received on _____ was not timely filed.

(d) ☐ the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$_____.

(e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.

(f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. ☐ The appeal brief filed on _____ is NOT acceptable for the reason(s) indicated below:

(a) ☐ the brief and/or brief fee is untimely. See 37 CFR 1.192.

(b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).

(c) ☐ the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).

3. ☒ The appeal in this application is DISMISSED because:

(a) ☒ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

(b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

(c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.

(d) ☐ other: _____

4. ☒ Because of the dismissal of the appeal, this application:

(a) ☒ is abandoned because there are no allowed claims.

(b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.

(c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.


SEAN MCGARRY
PRIMARY EXAMINER